

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of Implementation of  
Section 3(n) and 332 of the  
Communications Act

PR Docket No. 94-105

Regulatory Treatment of Mobile Services

**COMMENTS OF AIRTOUCH COMMUNICATIONS ON THE CPUC'S  
EMERGENCY MOTION**

Pursuant to Section 1.45 of the Commission's Rules, AirTouch Communications ("AirTouch") hereby comments on the "Emergency Motion of the People of the State of California and the Public Utilities Commission of the State of California For A 45-Day Extension of Time to File Reply Comments" dated September 19, 1994 ("Motion").

In its Motion, the California Public Utilities Commission of the State of California ("CPUC") requests a 45-day extension of time (i.e. a total of 60 days) to respond to the oppositions filed in response to the CPUC's Petition to Retain State Regulatory Authority Over Intrastate Cellular Service Rates ("CPUC Petition"). Although AirTouch does not object to the date for filing replies being extended for some appropriately brief period,<sup>1</sup> the additional 45-days requested by the CPUC is excessive and needlessly delays the resolution of this proceeding. In addition, since the CPUC's

<sup>1</sup> Of course, any extension of time for filing replies must be given to all parties since otherwise it would give the CPUC an unlawful opportunity to file a reply to the earlier filed replies of others. Furthermore, many of the arguments made by the CPUC in support of its Petition also apply to the other parties in this proceeding, and these other parties do not have the CPUC's advantage of being served with copies of all of the oppositions and comments.

rate regulations are costing California consumers approximately \$250 million per year,<sup>2</sup> contrary to the CPUC's claim that "no party will be prejudiced if the requested extension is granted" (Motion at 4), in fact cellular consumers are being hurt every day while the CPUC's costly rate regulations are in effect.

In deciding whether to grant the CPUC's Motion for some brief additional time, the Commission must also consider that its rules regarding the time to file replies were developed specifically for this proceeding. They were carefully crafted to balance the interests of all of the parties -- especially the public which has the right to be relieved as soon as possible of expensive rate regulations that do not meet the standards established by Congress and this Commission. Lastly, the CPUC is intimately familiar with all of the issues raised by the commenting parties due to its February 1994 further investigation of the wireless industry (R.94-02-003). Therefore, it is well-prepared to respond in a timely fashion to the Oppositions.<sup>3</sup>

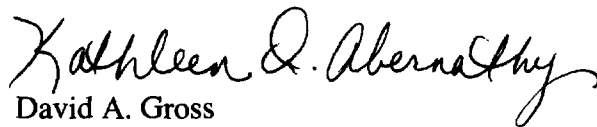
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<sup>2</sup> See, e.g., Affidavit of Professor Jerry A. Hausman, dated September 15, 1994, attached as Appendix E to the "Opposition of AirTouch Communications To CPUC Petition to Rate Regulate California Cellular Service," filed on September 19, 1994 ("Overall, I estimate that the anti-competitive regulation of the CPUC currently costs California cellular customers approximately \$250 million per year." (Hausman at 3)).

<sup>3</sup> Notably, the CPUC did not file a Petition for Reconsideration of the Commission's Second Report and Order, 9 FCC Rcd 1411 (1994) that established the time for filing these replies. Because the CPUC's Motion seeks to change the filing time that had been established in that proceeding, its Motion is really just an untimely Petition for Reconsideration and could be properly dismissed by the Commission. The only party that did seek reconsideration of this issue, the Pennsylvania Public Utility Commission (which did not file a Petition to rate regulate cellular services), suggested that the time for filing replies be extended for only a total of 20 to 30 days. See "Petition for Limited Reconsideration and Clarification of the Pennsylvania Public Utility Commission," filed on May 19, 1994 (GN Docket No. 93-252) at 5.

For the foregoing reasons, the Commission should not grant the CPUC's request that it be given a total of 60 days to file its reply to the oppositions filed to its Petition. Rather, the FCC should grant the CPUC and all other parties to this proceeding an appropriately short amount of additional time to file their replies.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kathleen Q. Abernathy".

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September 26, 1994

CERTIFICATE OF SERVICE

I, Tina L. Murray, do hereby certify that I have on this 26th day of September, 1994, caused to be forwarded a copy of the foregoing COMMENTS OF AIRTOUCH COMMUNICATIONS ON THE CPUC's EMERGENCY MOTION by first class United States mail, postage prepaid, to the following:

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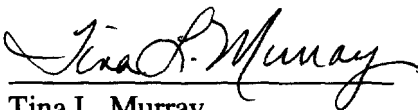
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